

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

RANDALL LEE THOMPSON

§

VS.

§

CIVIL ACTION NO. 6:09cv410

UNITED STATES OF AMERICA

§

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner Randall Lee Thompson, an inmate confined in federal prison, proceeding *pro se*, filed the above-styled and numbered motion to vacate his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the motion to dismiss (docket entry #6) by the Respondent United States should be granted and the Petitioner's motion should be denied and dismissed with prejudice in part as without merit and denied and dismissed in remaining part as successive, therefore rendering this Court without jurisdiction. Further, the Magistrate Judge recommended that a certificate of appealability should be denied. No objections having been filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is therefore

ORDERED that the Respondent United States's motion to dismiss (docket entry #6) be **GRANTED**. It is further

ORDERED that Petitioner's claim of ineffective assistance of counsel for failing to obtain a ruling from the trial court on his objection for an offense level reduction pursuant to 28 U.S.C. § 2255, and for his embedded motion for summary judgment, is hereby **DENIED** and **DISMISSED** with **PREJUDICE**. It is further

ORDERED that the remainder of Petitioner's motion to vacate pursuant to 28 U.S.C. § 2255 is **DENIED** and **DISMISSED** for lack of jurisdiction pursuant to 28 U.S.C. § 2244(b)(3)(A) and 28 U.S.C. § 2255. It is further

ORDERED that a certificate of appealability is hereby **DENIED**.

So ORDERED and SIGNED this 20th day of September, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE